

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Michelle Q. Wang Baldonado et al.)	Examiner:
)	Djenane M. Bayard
Serial No.	: 09/717,303)	
)	Art Unit:
Cnfrm. No.	: 8448)	2444
)	
Filed	: November 22, 2000)	
)	
For	: SYSTEM AND METHOD FOR MANAGING A)	
	COMPUTER-MEDIATED DISCUSSION)	
	FORUM)	

**PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION
PURSUANT TO 37 C.F.R. § 1.137(b)**

Mail Stop: PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. § 1.137(b), Applicants hereby petition to revive the above-identified unintentionally abandoned patent application. A Notice of Abandonment (form PTO-1432) mailed October 4, 2010 recites that no reply to a Notice of Defective Appeal Brief (Notice) mailed December 21, 2009 has been received by the Office. Previously, on December 4, 2009, Applicants filed an Appeal Brief in response to the final office action of June 4, 2009.

However, as set forth in detail below, Applicants did not receive the above-noted Notice, and only a facsimile copy of the same ("Exhibit A"), sent courteously by Examiner Bayard, was received by the Applicant on October 27, 2010, along with the Notice of Abandonment. Further, it is to be noted Applicants were, and to date are still unable to obtain any information regarding the above-noted patent application from Public-PAIR and Private-PAIR web pages of the Office.

Applicants' representatives were first made aware of the Notice through a telephone call from Examiner Bayard on September 15, 2010. During the telephone call, Examiner Bayard indicated a Notice of Abandonment of the above-identified patent

application will be sent to the Applicants' representative. A copy of the Examiner Interview Summary is being submitted herewith as "Exhibit B."

Upon receipt of the Notice of Abandonment, Applicants' representatives verified that the office of Xerox Corporation, the assignee of entire right and interest, did not receive the Notice either. Applicants' representatives also verified internally in their well-established docketing system whether or not the Notice was received. Unfortunately, there was no record of a receipt of the Notice in the docketing system prior to October 27, 2010 (*see*, Declaration of Mary Frances Heeks). Accordingly, the undersigned, on behalf of the Applicants, states the above-identified patent application was unintentionally abandoned, and respectfully requests revival of the same.

Pursuant to 37 C.F.R. § 1.137(b)(3), the undersigned states that the entire delay in filing the required response to the Notice, from the January 21, 2010 due date until the filing of this (grantable) petition, was unintentional. In addition, Applicants file an amended Appeal Brief in response to the Notice.

In compliance with 37 C.F.R. § 1.137(b)(2), please charge **\$1620.00** to cover the petition fee pursuant to 37 C.F.R. § 1.17(m) and any additional necessary fees or credit any overpayment to Deposit Account No. 14-1138.

In view of all of the foregoing, Applicants respectfully request favorable grant of this petition to revive the above-identified unintentionally abandoned application pursuant to 37 C.F.R. § 1.137(b)

Respectfully submitted,

Dated: November 24, 2010

/Shubhrangshu Sengupta/
Shubhrangshu Sengupta
Registration No. 67,109

NIXON PEABODY LLP
1100 Clinton Square
Rochester, New York 14604-1792
Telephone: (585) 263-1014
Facsimile: (585) 263-1600




UNITED STATES PATENT AND TRADEMARK OFFICE

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e 12/21/2009

NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

Paper No.

Application No.:	09/717,303	Date Mailed:	12/21/2009
			
First Named Inventor:	Wang Baldonado, Michelle, Q.	Examiner:	BAYARD, DJENANE M
Attorney Docket No.:	001508-3160	Art Unit:	2444
Confirmation No.:	8448	Filing Date:	11/22/2000

Please find attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)	
	09/717,303	WANG BALDONADO ET AL.	
	Examiner	Art Unit	
	Djenane, Bayard	2444	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

The Appeal Brief filed on 04 December 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☐ Other (including any explanation in support of the above items):

Section III Status of claims section fails to list the status of all claims. (Appealed, Canceled, Withdrawn). Heading 3 is a improper heading for this brief.

/LASHAWN A. HINTON/
LaShawn Hinton
571-272-1584



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,303	11/22/2000	Michelle Q. Wang Baldonado	001508-3160	8448

7590 10/04/2010

NIXON PEABODY LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603

EXAMINER	
BAYARD, DJENANE M	

ART UNIT	PAPER NUMBER
2444	

MAIL DATE	DELIVERY MODE
10/04/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment	Application No.	Applicant(s)	
	09/717,303	WANG BALDONADO ET AL.	
	Examiner	Art Unit	
	DJENANE M. BAYARD	2444	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 21 December 2009.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

See Interview Summary

/Djenane M Bayard/
Primary Examiner, Art Unit 2444

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Interview Summary	Application No.		Applicant(s)	
	09/717,303		WANG BALDONADO ET AL.	
	Examiner		Art Unit	
	DJENANE M. BAYARD		2444	

All participants (applicant, applicant's representative, PTO personnel):

(1) DJENANE M. BAYARD. (3) _____.

(2) Shubhrangshu Sengupta. (4) _____.

Date of Interview: 15 September 2010.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.
If Yes, brief description: _____.

Claim(s) discussed: _____.

Identification of prior art discussed: _____.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant stated that a Notice of Defective Appeal Brief was not received.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Djenane M Bayard/ Primary Examiner, Art Unit 2444	
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Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.